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UNCLAS SECTION 01 OF 03 BUCHAREST 001304

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TREASURY FOR STEWART
LONDON FOR EBRD - GRETCHEN BIERY

E.O. 12958: N/A
TAGS: EFIN ECON ETRD RO EBRD
SUBJECT: PROSPECTIVE EBRD LOAN WOULD REINFORCE UNFAIR COMPETITIVE ADVANTAGE OF ROMANIAN COMPANY

THIS MESSAGE IS SENSITIVE BUT UNCLASSIFIED. IT CONTAINS BUSINESS PROPRIETARY INFORMATION AND SHOULD BE HANDLED ACCORDINGLY.

¶1. (SBU) Summary: Post was unpleasantly surprised to learn that the EBRD office in Bucharest is contemplating a loan worth over 200 million dollars to a Romanian company that has repeatedly come into our sights as an unfair and abusive competitor in the soft drinks and consumer product markets. Post believes strongly that awarding bad corporate practices by granting a preferential loan to such a company would send a signal that cheating is the best way to get ahead in Romania's market economy. Post therefore strongly opposes this loan. End Summary.

A Surprise from the Local EBRD Representatives
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¶2. (SBU) An alert member of the Economic Section's staff in Bucharest noticed on May 31 an EBRD website announcement about a contemplated loan of over 200 million dollars to Romanian food and beverage company European Drinks Group. She immediately alerted us to this because Embassy considers this particular company to be one of the worst in Romania for its blatant financial and tax manipulation that helped it gain unfair competitive advantage over other companies, including Coca-Cola.

¶3. (SBU) In subsequent communication with the USG's EBRD representative in London and in discussions directly with EBRD representatives in Bucharest, it became evident that EBRD Bucharest had circumvented both the U.S. Embassy and U.S. companies in Romania in its so-called "due diligence" in investigating European Drinks Group (ED). This is astonishing, because if EBRD had queried companies belonging to the American Chamber of Commerce in Bucharest and/or the U.S. Embassy, the EBRD's representatives would have heard a resounding salvo of complaints about ED.

¶4. (SBU) According to the project summary document on the EBRD website, the European Drinks project has passed the concept review and is pending final review. This makes it all the more urgent that officials in Washington and the USG's representative to the EBRD in London understand the implications of allowing this loan to go forward.

¶5. (SBU) Post Economic and Commercial Officers have now held two information sharing meetings with EBRD local Deputy Head of Office and the EBRD's Associate banker responsible for the crafting the loan project. We expressed our disappointment at not being put into the process of due diligence until the project is seemingly a "done deal." Moreover, since it is our strong impression that the EBRD has already made a decision to move forward with this project, we are providing now to USG officials the same basic set of concerns that we submitted to the EBRD in Bucharest for its response, rather than wait for the EBRD's replies.

A Company with a Reputation for Dubious Business Tactics
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¶6. (SBU) Post has heard and read many negative reports about this company and the men who control it. Emerging from the raucous early years of post-revolution Romania as "entrepreneurs," the main owners of the company, twin brothers with the family name Micula, have aggressively pursued business growth, seemingly at any price. They have created a network of holding and offshore companies to become substantial players in Romania's growing beverages and food sector. They are also allegedly engaged in bribery and intimidation as a part of their business strategy. However, in a country with pervasive political and administrative corruption and a dysfunctional judiciary, most of the reports of wrongdoing and corporate malfeasance will never even reach a formal legal investigation and will almost certainly not be tested in a court of law. In addition, sadly for Romania, officials at every level in this country are still easily bought off and will change

records for a fee.

¶7. (SBU) Despite the murkiness of the roots of ED's wealth and the slipperiness of its owners, Post believes that overwhelming circumstantial evidence points to a company that has repeatedly manipulated the political and economic system in Romania to claw its way to a substantial market position to the detriment of honest American companies that must hold themselves to a higher standard of integrity.

¶8. (SBU) The following list outlines our major concerns with this company and with the manner in which the local EBRD office pursued its "due diligence" for this potential loan:
- Avoiding American opinions. As already stated, EBRD's work in preparing the loan circumvented the U.S. Embassy in Bucharest and also American companies directly harmed by ED's business practices. Post notes that the EBRD's Bucharest Deputy Director claims to have consulted with other foreign embassies in Bucharest and with the Bucharest-based Foreign Investors Council (FIC), on whose Board the EBRD's Director sits.
- Political conflicts of interest. Current Finance Ministry Secretary of State Doina Dascalu is married to Romulus

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Dascalu, director of the "SC Scandic Distilleries SRL" and "General Transilvania Exim SRL," firms of the European Drinks Group. People employed by European Drinks Group hold political positions in various cities and counties in Romania in which the company has received special treatment.
- Anticompetitive practices using state aid. European Drinks has notoriously been one of the main beneficiaries of state aid, to the detriment of legitimate corporate taxpayers and to free market in Romania. By financing a company that has benefited from the distorting mechanism of preferential state aid, the EBRD would reinforce the outcome of these practices. This is inconsistent with EBRD's stated goal to "help move the country closer to a full market economy."
- Possible improper externalization of debt by the European Drinks Group. The transfer of two companies of the group (General Transilvania Exim and Interstock) that had ROL 450 billion (about 13.8 million dollars at the average 2004 exchange rate) in arrears to the state, to two offshore companies resulted in decrease of ED's reported arrears. Manipulation of ED's books to make it seem less like a tax deadbeat is an obvious possible result.
- Noncompliance with antitrust legislation and other financial legislation. European Drinks was allowed to purchase state-owned entities (enterprises and hotels) at a time when it owed the Romanian treasury back taxes. Post questions how this could have been done legally, since Romanian privatization legislation restricts companies with budget arrears from purchasing state-owned companies. These probably were not approved by the Romanian Competition Council in a manner which will stand up to the current intense scrutiny of the European Commission Directorate General for Competition.
- Operations of ED in tax havens. European Drinks transferred ownership of Original Prod company to Limerock Holdings Limited in Cyprus. The management of Limerock included Traian Bulzan. At the same time, Mr. Bulzan held a managerial position with European Drinks. Post questions the ability of EBRD to perform the necessary due diligence for a company with obvious complex ties to offshore entities and the possible implications for financial transfers to those offshore companies.
- Intimidation and harassment of Coca-Cola company in Romania. Managers of the local Coca-Cola company in Romania have complained many times in the past of the thuggish tactics of ED in destroying its property and threatening its employees. Since Coca-Cola is a member of the American Chamber of Commerce (AmCham) in Bucharest and adheres to the ethics of the AmCham, it is already in a disadvantaged position vis-a-vis many Romanian and other foreign competitors in its own choice of business tactics. In addition, Coca-Cola always pays its debts on time; again, another disadvantage in its competition with European Drinks that seems always able to find a way out of paying its fair share of the national tax burden on time.
- Abuse of customs legislation through imports through disadvantaged zones. American soft drinks companies and the Romanian Sugar Association have repeatedly complained about ED misusing the custom duty exemption for imports into disadvantaged zones to import sugar that it has either re-exported or used for soft and alcoholic drinks, in breach of Romanian legislation, and with an unfair price advantage compared to its law-abiding competitors.

Conclusion

¶9. (SBU) Post strongly urges the USG to oppose this EBRD loan project in order to prevent the American taxpayers' money to go to help a company as unsavory as European Drinks Group. Post notes that it is deeply ironic that the stated purpose of the EBRD loan is to make ED "more transparent in its corporate operations." We believe that there must be

honest entrepreneurs in Romania who are already transparent and ethical for whom an EBRD loan would enhance their ability to compete fairly in a modern market economy.

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